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A34802 (066123.0111)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Qazi et al.
Serial No. : 09/998,573 Examiner: To Be Assigned
Filed : November 16, 2001 Group Art Unit: 1645
For : METHODS AND COMPOSITIONS FOR IN VITRO GERMINATION
AND PROPAGATION OF POLYGONATUM CIRRHIFOLIUM
ROYLE

RESPONSE TO RESTRICTION REQUIREMENT

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Rochelle K. Seide
Attorney Name

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Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

Sir:

This is paper is submitted in response to the Office Communication dated May 20, 2003 in the above-identified application in which the Examiner issued a restriction requirement. The Examiner has required the selection of one of five groups of claims for prosecution in this application:

Group I: claims 1-22 Method of in vitro cultivation of Polygonatum

Group II: claims 23-40 Kit of medium

Group III: claims 41-56 Method of in vitro induction of germination

Group IV: claims 57-70 Method of epicotyl dormancy release

Group V: claims 71-84 Method of in vitro release of epicotyl dormancy
from differentiated de novo axillary bud

Applicants respectfully traverse the restriction requirement, but provisionally elect Group I (i.e., Claims 1-22) to be prosecuted on the merits as required under 37 C.F.R. § 1.143.

The Examiner alleges that claims of Group I and III-V are each distinct from the others, because the methods require different starting materials and method steps to achieve divergent ends. The Examiner also alleges that no method would render any of the others obvious, and different searches would be required for each Group. The Applicants respectfully disagree.

Claims 1-22 relate to methods of in vitro cultivation of Polygonatum. These methods relate to the cultivation of Polygonatum from seed using three types of media for germination, leafing and budding stages of cultivation. The seeds are induced to germinate upon contact with a first medium comprising a MS basal culture medium containing gibberellic acid (GA₃). Once a hypocotyl emerges, the seedling or embryo is explanted to a second medium comprising a MS basal culture medium containing 6-benzyl-aminopurine and naphthalene acetic acid. Once a first foliage leaf emerges, the seedling or embryo is explanted to a third medium

comprising a MS basal culture medium containing 6-benzyl-aminopurine, naphthalene acetic acid, and gibberellic acid.

The steps recited in Claim 1 are directed to germination, leafing and budding of the seedling. These steps are embodied in the claims of Groups III-V. Claims 41-56 (Group III) are directed to methods of in vitro induction of germination of *Polygonatum*. Claims 57-70 (Group IV) are directed to methods of inducing epicotyl dormancy release. Claims 71-84 (Group V) are directed to methods of inducing in vitro release of epicotyl dormancy from differentiated de novo axillary bud. *Polygonatum* exhibits epicotyl dormancy after initial germination. The use of the second and third media disclosed in claim 1 promotes the termination of epicotyl dormancy. Since the claims of Group III-V are encompassed by Group I, Applicants submit that the claims of these Groups are not distinct.

The requirement for a restriction between patentably distinct inventions is proper when: (a) the inventions are independent or distinct and (b) there is a serious burden on the examiner. M.P.E.P. § 803. Both of these requirements must be met for the restriction requirement to be warranted. It is respectfully asserted that the field of search for the methods recited in claims 1-22 would not be different from the field of search for the systems recited in claims 41-84. As such, there would not be a "serious" burden on the Examiner to examine the claims directed to the methods in vitro cultivation and the claims directed to methods of in vitro induction of germination, methods of inducing epicotyl dormancy release, and methods of inducing in vitro release of epicotyl dormancy from differentiated de novo axillary bud.



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In view of the foregoing, Applicants submit that claims 1-22 and 41-84 of this application are not properly subject to a restriction. Therefore, Applicant respectfully requests a withdrawal of the restriction requirement and immediate consideration of claims 1-22 and 41-84.

Applicants believe that there is no fee required with the submission of this paper. However, if such fee is due or overpayment made in connection with this submission, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-4377 of Baker Botts L.L.P. Duplicate copies of this page are attached.

Respectfully submitted,

Rochelle K. Seide
Patent Office Reg. No. 32,300

Attorneys for Applicants
(212) 408-2500

Enclosures



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Attorneys for Applicants
(212) 408-2500

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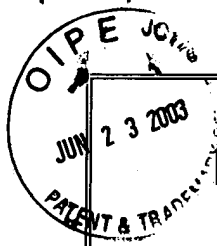
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/998,573
	Filing Date	Nov. 16, 2001
	First Named Inventor	Qazi
	Group Art Unit	1645
	Examiner Name	Para, A.
Total Number of Pages in This Submission	Attorney Docket Number	A34802 066123.0111

ENCLOSURES (check all that apply)		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	BakerBotts LLP 30 Rockefeller Plaza New York, NY 10112
Signature	<i>Rochelle K. Seide</i> Att Name: Rochelle K. Seide PTO Reg: 32,300
Date	June 19, 2003

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BAKER BOTTS LLP

Attorney Docket Number: A34802 066123.0111

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